

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1584 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

JAYANTILAL DUNGARSINH SHAH

Versus

STATE OF GUJARAT

Appearance:

MR HR PRAJAPATI for Petitioner
MR KT DAVE, AGP, for Respondents No. 1 & 2
MS PJ DAVAWALA for Respondent No. 3

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 04/05/2000

ORAL JUDGEMENT

1. The petitioner-Jayantilal Dungarshi Shah is detained under the provisions of the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 ("PBM Act" for short) by virtue of

an order passed by the State Government on the 6th March, 1999. The said order was passed with a view to preventing the detenu from acting in any manner prejudicial to the maintenance of supplies of essential commodities like petrol, diesel and kerosene essential to the community. The petitioner-detenu is the owner of Jai Ambe Petroleum Service and was found to be indulged in activities detrimental to smooth supplies of essential commodities and, therefore, the order of detention was passed.

2. The detenu has preferred this petition on various grounds. However, learned advocate, Mr. Prajapati, appearing for the petitioner-detenu has restricted his arguments to the fact that despite demand having been raised in a representation made on behalf of the detenu, the detenu has not been supplied with Gujarati translation of certain documents. The detenu has categorically stated that he does not know English language and, therefore, this non-supply of Gujarati version of the documents demanded on behalf of the detenu has infringed the right of the detenu of making an effective representation and his continued detention, therefore, is rendered bad in law. He, therefore, submitted that the petition may be allowed and the order impugned in the petition may be quashed and set aside.

3. Respondents No.1 and 2 are represented by learned Assistant Government Pleader, Mr. K.T. Dave and respondent No.3-Union of India is represented by learned Additional Central Government Standing Counsel, Ms. Davawala. They both have opposed this petition. Ms. Davawala has relied on the affidavit-in-reply filed on behalf of Union of India. Likewise, Mr. Dave has relied on the affidavit-in-reply filed on behalf of the State Government.

4. Having regard to rival side contentions, the fact remains undisputed that a representation was made on behalf of the detenu demanding certain documents, namely, pages No.57 to 62, which is the schedule indicating the list of laboratories for testing samples of petroleum products forming part of Motor Spirit and High Speed Diesel (Prevention of Malpractices in Supply and Distribution) Order, 1990. Admittedly, translation of these pages, which are in English, are not supplied to the detenu. Under the circumstances, the right of the detenu of making an effective representation can be said to have been adversely affected. The continued detention, therefore, would be rendered bad in law. The order, therefore, cannot be supported. The petition

deserves to be allowed.

5. In view of the above discussion, the petition is allowed. The impugned order of detention dated March 6, 1999, passed against the detenu is hereby quashed. The detenu-Jayantilal Dungarshi Shah is ordered to be set at liberty forthwith, if not required in any other matter. Rule is made absolute with no orders as to costs.

[A.L. DAVE, J.]

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